

STANDARD APPLICATION  
Harford County  
Board of Appeals  
Bel Air, Maryland 21014

Case No. 5559  
Date Filed 7/11/06  
Hearing Date \_\_\_\_\_  
Receipt \_\_\_\_\_  
Fee \$450.00

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation  
☐ Special Exception  
☐ Use Variance  
☐ Change/Extension of Non-Conforming Use  
☐ Minor Area Variance  
☒ Area Variance  
☐ Variance from Requirements of the Code  
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code

CASE 5559 MAP 02 TYPE Variance ELECTION DISTRICT 04

LOCATION 5500 New Park Road, White Hall 21161

BY Jeffrey and Leslie Lynn

Appealed because a variance pursuant to Sec. 267-34(C) Table II of the Harford County Code to permit a dwelling to encroach the 70' front yard setback (60' setback proposed from the center of the road) in the AG District, requires approval by the Board.

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Jeffrey N. Lynn Phone Number 410-365-1856  
Address 5500 New Park Rd White Hall MD 21161  
Street Number Street City State Zip Code

Co-Applicant Leslie C. Lynn Phone Number 443-324-4570  
Address 5500 New Park Rd White Hall MD 21161  
Street Number Street City State Zip Code

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_  
Address \_\_\_\_\_  
Street Number Street City State Zip Code

Attorney/Representative \_\_\_\_\_ Phone Number \_\_\_\_\_  
Address \_\_\_\_\_  
Street Number Street City State Zip Code

**Land Description**

Address and Location of Property 5500 New Park Road  
White Hall, MD 21161

Subdivision Island Branch Farm Lot Number 00000

Acreage/Lot Size 101.01 ac Election District 04 Zoning AG

Tax Map No. 0002 Grid No. 0004B Parcel 0016 Water/Sewer: Private ☒ Public ☐

List ALL structures on property and current use: tenant house; equipment shed; corn crib  
(not in use); 2 barns; trailer (occupied); garage (storage)

Estimated time required to present case: 15 minutes

If this Appeal is in reference to a Building Permit, state number 2004348B0220

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: \_\_\_\_\_

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

**Request**

Variance to encroach into front yard setback  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Justification**

Please see attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

## **Justification for Variance Request:**

**Jeffrey N. and Leslie C. Lynn  
5500 New Park Road  
White Hall, Maryland 21161**

On September 1, 2004 we purchased the property at 5500 New Park Road. Our intention was to renovate the block structure house, as it was uninhabitable. The pipes had burst, causing widespread damage to the first floor ceiling, and the wood floors in the dining and living rooms were sagging with both extensive water damage and termite infestation.

On January 25, 2005, we received Harford County building permit # 2004348B0220 to straighten the walls on the house and to construct an addition that would connect the house with an existing garage. When our contractor, JPM Associates (Joe Mueller), attempted to remove the north corner of the roof from the existing house, a crack developed in the west wall of the house, which was constructed of formstone.

This is our understanding of what happened at this point:

Mr. Mueller contacted Jim Ellwood, a representative from Harford County Department of Inspections, Licenses, and Permits, to verify what steps would need to be taken. We are unclear as to the exact words of their conversation, however, Mr. Mueller determined that there were structural problems with all of the walls of the house. They were not aligned properly with the foundation and in his opinion were not structurally sound. He told us that Mr. Ellwood approved the dismantling of the walls of the house, and that as long as we used the existing foundation and block walls (which were structurally sound) in the same footprint, we could continue to construct the house, beginning at the top of the foundation wall.

Up until June 29, 2006, we continued construction on the house. There were at least three footing, two electrical, and two plumbing inspections performed on the new house. In addition, since the health department could not locate the septic system, we installed a new one, including a county-required ejection system. This was an unanticipated expense of approximately \$25,000.00.

On June 29, 2006, we were informed *for the first time* that the inspector who had been out to the property to check the footings in February 2005 had noticed that the house had been dismantled to the top of the block wall foundation, and that he told "someone" at the site that we would need to request a new, re-worded building permit to reflect the changes we had made. We were not personally informed that we would need to change the permit until last week, June 29, 2006. In fact, it was our understanding that when Mr. Mueller had spoken with Mr. Ellwood in February 2005, Harford County was aware of the changes due to the structural problems with the exterior walls and there would be no reason to stop construction. Evidently, renovation had turned into new construction,

even though we were using the existing foundation, block wall, and garage. At the same time, we were told, again *for the first time*, that we would need to file a zoning variance due to the insufficient distance of the foundation from the middle of New Park Road. While the county was able to approve the *renovation* of our non-conforming house, they now would not approve the completion of the construction of the home – on the same footprint - since it is approximately ten feet closer to the road than is allowed by code for *new* construction.

We are requesting a variance to allow us to complete construction on the home that falls within the same footprint of the original house that was built before county code required the current setback. In fact, due to the renovation of the house plan, the front of the house is no longer facing New Park Road but instead faces our driveway. In addition, the tenant house that lies on our property is closer to the road than the house in question. We have incurred extreme additional expense beyond our original budget due to the changes in the construction of the house, and in order to satisfy county health department requirements. We also have followed all county regulations with respect to footing, plumbing, and electrical inspections. It was not until we requested a second extension on our building permit that we were notified regarding the necessary changes to the building permit and the need for a zoning variance. We thought we were within all county regulations while working to complete our home.

# 2004 Aerial Photograph



☒ Overview

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2004 UTM

DAVID R. CRAIG  
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO  
DIRECTOR OF ADMINISTRATION



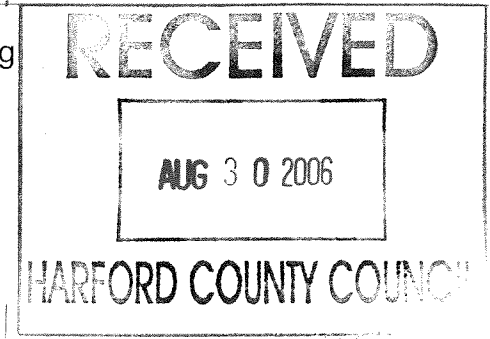
C. PETE GUTWALD  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

August 29, 2006

### STAFF REPORT



### BOARD OF APPEALS CASE NO. 5559

APPLICANT/OWNER: Jeffrey N. Lynn  
5500 New Park Road, White Hall, Maryland 21161

Co-APPLICANT: Leslie C. Lynn  
5500 New Park Road, White Hall, Maryland 21161

REPRESENTATIVE: Applicants

LOCATION: 5500 New Park Road – Island Branch Farm  
Tax Map: 2 / Grid: 4B / Parcel: 16  
Election District: Four (4)

ACREAGE: 101.01 acres

ZONING: AG/Agricultural

DATE FILED: July 11, 2006

HEARING DATE: September 11, 2006

### APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

### CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-34(C), Table II of the Harford County Code to permit a dwelling to encroach into the 70-foot front yard setback (60-foot setback proposed from the center of the road) in the AG/Agricultural District.

*Preserving Harford's past; promoting Harford's future*

## STAFF REPORT

Board of Appeals Case Number 5559

Jeffrey & Leslie Lynn

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Enclosed with the report is a copy of Section 267-34(C), Table II of the Harford County Code (Attachment 2).

### **LAND USE and ZONING ANALYSIS:**

#### Land Use – Master Plan:

The Applicants property is located in the northwest corner of the County in the community of Norrisville. The property is situated on the northwest side of New Park Road east of Norrisville Road (MD Route 23). A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 3 and 4).

The subject property is located outside of the Development Envelope. The predominant land use designation in this area is Agricultural. The Village of Norrisville is located to the southwest. The Natural Features Map reflects Parks, Stream Systems, Sensitive Species Project Review Areas, Deer Creek Scenic River District, Maryland Environmental Trust Easements and Agricultural Preservation Easements. The subject property is designated as Agricultural, which is defined by the 2004 Master Plan as:

*Agricultural – Areas where agriculture is the primary land use, but where developments rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

#### Land Use – Existing:

The existing land uses conform to the overall intent of the Master Plan. The predominant land use in this area of the County is Agricultural which includes cropland, pastureland and large areas of dense woodland. There are several small single family residential subdivisions. The topography for the area ranges from rolling to steep especially near the stream valleys. Copies of the topography map and aerial photograph are enclosed with the report (Attachments 7 and 8).

The subject property is an irregular shaped 101± acre parcel with frontage on the northwest side of New Park Road. The topography of the site ranges from rolling to steep. The farm is part of the State's Agricultural Easement Program (Attachment 9). Existing improvements consist of a recently constructed large frame 2-story dwelling with an attached 2-car garage which is the subject of this Board of Appeals Case. The original dwelling was constructed in 1938 and the detached garage in the late 60's. Other improvements consist of a mobile home, barns and several agricultural buildings. The farm contains cropland and pastureland. The topography of



## STAFF REPORT

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the property is rolling to steep. Enclosed are photographs of the site and general area along with an enlargement of the aerial photograph (Attachments 9 and 10).

### Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification in the area is AG/Agricultural. There is VR/Village Residential and VB/Village Business Districts located to the southwest. The subject property is zoned AG/Agricultural as shown on the enclosed copy of the zoning map (Attachment 11).

### **SUMMARY:**

The Applicants are requesting a variance pursuant to Section 267-34(C), Table II of the Harford County Code to permit a dwelling to encroach into the 70-foot front setback (60-foot setback proposed from the center of the road) in the AG/Agricultural District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Department finds that the subject property is unique. The property is irregularly shaped and contained a nonconforming dwelling. The applicants intended to renovate the existing dwelling which was nonconforming to the front yard setback (Attachment 12). However, the condition of the structure required that the building be dismantled by more than 50% of its replacement value. Therefore, a variance is needed for the new structure to be located in the front yard setback. The dwelling is located over the original foundation and is the same distance from the road as the original structure. There are several older dwellings along New Park Road that are nonconforming to the front yard setback. The requested variance will not adversely impact the adjacent properties or the intent of the code.

### **RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the requested variance be approved subject to the following conditions:

1. The Applicants shall amend the existing permit and obtain any necessary inspections.
2. The Applicants shall provide landscaping between the front of the house and the road. A landscaping plan shall be submitted to the Department of Planning and Zoning for review and approval.

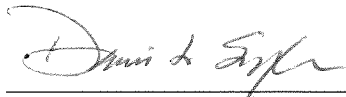


STAFF REPORT

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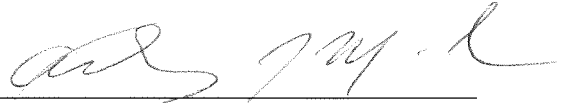
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Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review

DJS/ASM/jf



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Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning